

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:22-CV-384

DANIEL TAYLOR JOHNSON,

Plaintiff,

v.

NORTH CAROLINA STATE  
UNIVERSITY,

Defendant.

**NOTICE OF REMOVAL**  
**28 U.S.C. §§ 1331, 1441, & 1446**

**Wake County Superior Court**  
**State of North Carolina**  
**22-CVS-10460**

TO: The United States District Court  
for the Eastern District of North Carolina

PLEASE TAKE NOTICE THAT Defendant North Carolina State  
University submits this Notice of Removal under 28 U.S.C. §§ 1331 and  
1441(a) to this Honorable Court.

In support of this Notice, NC State shows the following:

**PROCEDURAL BACKGROUND AND RELEVANT ALLEGATIONS**

1. Daniel Taylor Johnson commenced this action by filing a  
complaint on August 22, 2022, in the General Court of Justice, Superior  
Court Division, Wake County, North Carolina. Johnson's case was docketed  
as 22-CVS-10460.

2. Johnson's complaint appears to assert three causes of action: (1) violation of the Equal Protection clause of the Fourteenth Amendment of the U.S. Constitution pursuant to 42 U.S.C. § 1983; (2) violation of the law of the land and equal protection clause of the State Constitution under *Corum v. University of North Carolina*, 330 N.C. 761, 413 S.E.2d 276 (1992); and (3) malicious prosecution.

### FEDERAL QUESTION AND SUPPLEMENTAL JURISDICTION

3. This Court has original subject-matter jurisdiction under 28 U.S.C. § 1331 because Johnson's complaint alleges violations of federal law. Specifically, he claims that NC State violated the Fourteenth Amendment of the Constitution of the United States pursuant to 42 U.S.C. § 1983. Accordingly, NC State may remove this action to this Court. 28 U.S.C. § 1441(a).

4. The Court also has supplemental jurisdiction over Johnson's state-law claims. Because the Court has original jurisdiction over Johnson's federal claims, the Court has supplemental jurisdiction over "all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. § 1367(a). Federal and state law claims that "derive from a common nucleus of operative fact[s]" form a single

constitutional case for the purpose of subject-matter jurisdiction. *City of Chicago v. Int'l Coll. of Surgeons*, 522 U.S. 156, 165 (1997).

5. Johnson's state-law claims are based on the same operative facts as his federal claims. Accordingly, this Court has supplemental jurisdiction over his state-law claims.

#### NOTICE OF REMOVAL IS TIMELY

6. NC State was served with the complaint on August 24, 2022. Thus, NC State has until Friday, September 23, 2022, to file notice of removal. As a result, removal is timely under 28 U.S.C. § 1446(b)(1).

#### VENUE

7. Venue is proper because the Eastern District of North Carolina includes the Superior Court of Wake County, North Carolina, where this lawsuit was originally filed. 28 U.S.C. §§ 113(a), 1441(a). In addition, the Western Division is the division that encompasses Wake County where this complaint was filed. Local Civil Rule 40.1(b).

#### UNANIMOUS CONSENT TO REMOVAL

8. NC State is the only defendant and consents to this Notice of Removal.

NOTICE TO PLAINTIFF AND STATE COURT

9. Under 28 U.S.C. § 1446(d), undersigned counsel certifies that a copy of this Notice of Removal will be served on Plaintiff and filed promptly with the Clerk of the Superior Court for Wake County.

NON-WAIVER OF DEFENSES

10. By filing this Notice of Removal, NC State does not waive any defenses that may be available to it and expressly reserves all such defenses, objections, and motions.

WHEREFORE, NC State gives notice that the above-styled action pending in the Superior Court for Wake County, North Carolina, has been removed to this Court and that this Court has full jurisdiction over the claims herein as provided by law.

This 23rd day of September, 2022.

JOSHUA H. STEIN  
Attorney General

/s/ Kenzie M. Rakes  
Kenzie M. Rakes  
Assistant Attorney General  
NC State Bar No. 46349  
[krakes@ncdoj.gov](mailto:krakes@ncdoj.gov)

North Carolina Department of Justice  
PO Box 629  
Raleigh, NC 27602  
Tel: 919-716-6920  
Fax: 919-716-6764

*Counsel for Defendant*

CERTIFICATE OF SERVICE

I certify that the foregoing NOTICE OF REMOVAL was filed electronically with the Clerk of Court using the CM/ECF system which will send notification of such filing to the below listed attorney for Plaintiff, if registered, and I have served the document upon opposing counsel by mailing via the US Mail, first class, postage prepaid, addressed as follows:

Daniel Johnson  
33 High Pine Trail  
Greenville, SC 29617

Daniel Johnson  
5540 Centerview Drive  
Raleigh, NC 27606

This 23rd day of September, 2022.

/s/ Kenzie M. Rakes  
Kenzie M. Rakes  
Assistant Attorney General